

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT

ISABEL RODRIGUEZ,

Plaintiff,

No. D-202-CV-2016-01501

vs.

SEAN WEST BAGGS and BNSF
RAILWAY COMPANY,

Defendants.

COMPLAINT FOR PERSONAL INJURIES

COMES NOW the Plaintiff, ISABEL RODRIGUEZ individually, by and through their attorneys, McBRIDE, SCICCHITANO & LEACOX, P.A. (Nicholas Norden, Esquire) and sues the Defendants, SEAN WEST BAGGS and BNSF RAILWAY COMPANY, alleging as follows:

FACTS COMMON TO ALL CLAIMS

1. The Plaintiff, ISABEL RODRIGUEZ, is a resident of Albuquerque, County of Bernalillo, State of New Mexico.
2. Upon information and belief, the Defendant, SEAN WEST BAGGS, is a resident of Imboden, County of Lawrence, State of Arkansas.
3. That upon information and belief, the Defendant, BNSF RAILWAY COMPANY, is a Delaware Foreign Profit Corporation, authorized to do business in the State of New Mexico
4. This Court has jurisdiction over all parties and matters herein.
5. On January 18, 2016, Plaintiff, ISABEL RODRIGUEZ, was the driver of a vehicle that was traveling eastbound, on Menaul Avenue, in the City of Albuquerque, County of Bernalillo, State of New Mexico.



6. Another vehicle, operated by Defendant, SEAN WEST BAGGS, was traveling westbound on Menaul Avenue.

7. That Defendant, SEAN WEST BAGGS, carelessly operated his vehicle when he attempted to make a left turn, in front of Plaintiffs' vehicle and struck Plaintiffs' vehicle due to inattention to traffic on the roadway, causing heavy damage to Plaintiffs' vehicle.

8. At all times material hereto, Defendant, SEAN WEST BAGGS, was an employee of Defendant, BNSF RAILWAY COMPANY, acting either in the course and scope of his 'employment', or within the course and scope of his 'duties' as employees, agents, supervisors or both.

9. As a result of this collision, Plaintiff sustained personal injuries, including physical and mental pain and suffering, which required medical treatment.

COUNT I:

**NEGLIGENCE AND NEGLIGENCE PER SE AGAINST DEFENDANT, SEAN WEST
BAGGS**

10. Plaintiff realleges and reasserts Paragraphs 1 – 9 of Facts Common to All Claims as though fully set forth herein.

11. On January 18, 2016, and at all times material hereto, Defendant, SEAN WEST BAGGS, owed a duty to exercise reasonable care in the operation, maintenance, control and/or use of the motor vehicle for the benefit of other individuals on the public roadways, including the Plaintiffs.

12. Defendant, SEAN WEST BAGGS, breached said duty to the Plaintiff by violating Plaintiff's right of way and causing the vehicle he was operating to crash into Plaintiff's vehicle.

13. The automobile collision which is the subject matter of Plaintiffs' Complaint for Personal Injuries and subsequent injuries was proximately caused by one or more of the following negligent acts or omissions on the part of Defendant in that Defendant:

a. Failed to obey a traffic-control device in violation of §66-7-104(A) N.M.S.A. (1978).

b. Failed to yield right-of-way when entering a stop or yield intersection in violation of §66-7-330 N.M.S.A. (1978). N.M.S.A.

c. Failed to give his full time and entire attention to the operation of a motor vehicle in violation of §66-8-114(A) N.M.S.A. (1978); and

d. Failed to use ordinary care in the operation of his vehicle giving due care to the traffic and road conditions in violation of §66-8-114(B) N.M.S.A. (1978).

14. As a result of the negligence of Defendant, SEAN WEST BAGGS, Plaintiff was injured and suffered physical injuries, as well as mental and emotional suffering, loss of household services, lost wages and loss of enjoyment of life.

15. Said injuries sustained by Plaintiff required, and may continue to require, medical treatment and Plaintiff has incurred substantial medical bills.

COUNT II:

NEGLIGENCE AND NEGLIGENCE PER SE AS TO DEFENDANT, BNSF RAILWAY

COMPANY

16. Plaintiff realleges and reassert Paragraphs 1 – 9 of Facts Common to All Claims as though fully set forth herein.

17. On January 18, 2016, and at all times material hereto, Defendant, SEAN WEST BAGGS, was operating a motor vehicle within his course and scope of employment with Defendant, BNSF RAILWAY COMPANY, with its' permission and consent.

18. Defendant, BNSF RAILWAY COMPANY, is directly and vicariously liable for Plaintiffs' damages pursuant to the doctrine of *Respondeat Superior*.

19. The automobile collision which is the subject matter of Plaintiffs' Complaint for Personal Injuries and subsequent injuries was proximately caused by one or more of the following negligent acts or omissions on the part of Defendant in that Defendant, SEAN WEST BAGGS,:

a. Failed to obey a traffic-control device in violation of §66-7-104(A) N.M.S.A. (1978).

b. Failed to yield right-of-way when entering a stop or yield intersection in violation of §66-7-330 N.M.S.A. (1978). N.M.S.A.

c. Failed to give his full time and entire attention to the operation of a motor vehicle in violation of §66-8-114(A) N.M.S.A. (1978); and

d. Failed to use ordinary care in the operation of his vehicle giving due care to the traffic and road conditions in violation of §66-8-114(B) N.M.S.A. (1978).

20. As a result of the negligence of Defendant, SEAN WEST BAGGS, Plaintiff was injured and suffered physical injuries, as well as mental and emotional suffering, loss of household services, lost wages and loss of enjoyment of life.

21. Said injuries sustained by Plaintiff required, and may continue to require, medical treatment and Plaintiff has incurred substantial medical bills.

COUNT III:

NEGLIGENT ENTRUSTMENT AS TO DEFENDANT, BNSF RAILWAY COMPANY

22. Plaintiff realleges and reassert Paragraphs 1 – 9 of Facts Common to All Claims as though fully set forth herein.

23. Upon information and belief, on or about January 18, 2016, and at all times material hereto, Defendant, SEAN WEST BAGGS, was operating a vehicle owned and/or furnished by Defendant, BNSF RAILWAY COMPANY, with its permission, knowledge and consent.

24. Defendant, SEAN WEST BAGGS, was operating the aforesaid vehicle in a negligent manner and such negligence was a direct and proximate cause of the damages and injuries sustained by the Plaintiffs.

25. Upon information and belief, Defendant, BNSF RAILWAY COMPANY, did know, or should have known, that Defendant, SEAN WEST BAGGS, would operate the vehicle in a negligent manner.

26. Due to the negligent acts and/or omissions of Defendant, SEAN WEST BAGGS, Plaintiff was injured and suffered physical injuries, as well as mental and emotional suffering, loss of household services, lost wages and loss of enjoyment of life.

27. Said injuries sustained by Plaintiff required, and may continue to require, medical treatment and Plaintiff has incurred substantial medical bills.

COUNT IV:

PROPERTY DAMAGE CLAIM AGAINST SEAN WEST BAGGS

Plaintiff realleges and reasserts Paragraphs 1 – 9 of Facts Common to All Claims as though fully set forth herein.

28. On January 18, 2016, and at all times material hereto, Plaintiff was the owner of a certain 2001 TOYOTA VIN #4T3ZF13CX1U389048.

29. Immediately prior to and at the time of the subject collision, Plaintiff's vehicle was in good mechanical condition.

30. As a direct and proximate result of the negligence of Defendant, SEAN WEST BAGGS, Plaintiff's vehicle sustained substantial damage and was deemed a total loss.

31. Since the date and time of the accident, Plaintiff's vehicle has been inoperable and is unable to be repaired and therefore, Plaintiff has been denied the use of her vehicle.

COUNT V:

PROPERTY DAMAGE CLAIM AGAINST BNSF RAILWAY COMPANY

Plaintiff realleges and reasserts Paragraphs 1 – 9 of Facts Common to All Claims as though fully set forth herein.

32. On January 18, 2016, and at all times material hereto, Plaintiff was the owner of a certain 2001 TOYOTA VIN #4T3ZF13CX1U389048.

33. Immediately prior to and at the time of the subject collision, Plaintiff's vehicle was in good mechanical condition.

34. As a direct and proximate result of the negligence of Defendant, BNSF RAILWAY COMPANY and Defendant, SEAN WEST BAGGS, Plaintiff's vehicle sustained substantial damage and was deemed a total loss.

35. Since the date and time of the accident, Plaintiff's vehicle has been inoperable and is unable to be repaired and therefore, Plaintiff has been denied the use of her vehicle.

WHEREFORE, Plaintiff prays that this Court find for them and against Defendant, and enter a Judgment in favor of Plaintiff for the following relief:

- A. Damages in an amount sufficient to compensate Plaintiff for past medical losses and for physical and mental pain and suffering;
- B. Damages in an amount that will compensate Plaintiff for future losses, including incidental and consequential damages;
- C. Damages in an amount that will compensate Plaintiff for her property damage and loss of use of her vehicle;
- D. Plaintiffs' costs incurred in this action;
- E. Pre-judgment and post-judgment interest at the statutory rate per annum or as the trial court may, in its discretion, award; and
- F. For such other and further relief as this Court deems just and reasonable.

Respectfully submitted,

McBRIDE, SCICCHITANO & LEACOX, P.A.

/s/ Nicholas A. Norden

Nicholas A. Norden, Esq.
Attorney for Plaintiffs
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D-202-CV-201601501 - Tuesday, April 12, 2016

Isabel Rodriguez

v.

Sean West Baggs, et al.**CASE DETAIL**

CASE #	CURRENT JUDGE	FILING DATE	COURT
D-202-CV-201601501	Barela-Shepherd, Denise	03/07/2016	ALBUQUERQUE District

PARTIES TO THIS CASE

PARTY TYPE	PARTY DESCRIPTION	PARTY #	PARTY NAME
D	Defendant	1	BAGGS SEAN WEST
D	Defendant	2	BNSF RAILWAY COMPANY
P	Plaintiff	1	RODRIGUEZ ISABEL

ATTORNEY: NORDEN NICHOLAS A.

CIVIL COMPLAINT DETAIL

COMPLAINT DATE	COMPLAINT SEQ #	COMPLAINT DESCRIPTION	DISP	DISP DATE
03/07/2016	1	OPN: COMPLAINT		

COA SEQ #	COA DESCRIPTION
1	Tort: Personal Injury Auto

PARTY NAME	PARTY TYPE	PARTY #
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COMPLAINT DATE	COMPLAINT SEQ #	COMPLAINT DESCRIPTION	DISP	DISP DATE
03/07/2016	2	OPN: COMPLAINT		

COA SEQ #	COA DESCRIPTION
1	Tort: Property Damage Auto

PARTY NAME	PARTY TYPE	PARTY #
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REGISTER OF ACTIONS ACTIVITY

EVENT DATE	EVENT DESCRIPTION	EVENT RESULT	PARTY TYPE	PARTY #	AMOUNT
03/21/2016					
03/07/2016	JURY DEMAND 6 PERSON				
03/07/2016	ARB: CERT NOT SUBJECT				
03/07/2016	OPN: COMPLAINT				

JUDGE ASSIGNMENT HISTORY

ASSIGNMENT DATE	JUDGE NAME	SEQ #	ASSIGNMENT EVENT DESCRIPTION
03/07/2016	Barela-Shepherd, Denise	1	INITIAL ASSIGNMENT